



INDIANA UTILITY REGULATORY COMMISSION
302 W. WASHINGTON STREET, SUITE E-306
INDIANAPOLIS, INDIANA 46204-2764

<http://www.state.in.us/iurc/>
Office: (317) 232-2758
Facsimile: (317) 232-6758

FILED

JUL 20 2005

INDIANA UTILITY
REGULATORY COMMISSION

CAUSE NO. 42752

**IN THE MATTER OF THE PETITION OF THE)
STUCKER FORK CONSERVANCY DISTRICT FOR:)
1.) ADDITIONAL TERRITORIAL AUTHORITY TO)
RENDER SERVICE OF WATER SUPPLY TO)
ADDITIONAL USERS OUTSIDE OF ITS)
BOUNDARIES IN AN AREA IN WASHINGTON)
AND JENNINGS COUNTIES, INDIANA: AND)
2.) APPROVAL OF A NEW SCHEDULE OF RATES)
AND CHARGES FOR WATER SERVICE AND A)
SCHEDULE FOR PHASING-IN SAID RATES AND)
CHARGES)**

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") caused the following entry to be made:

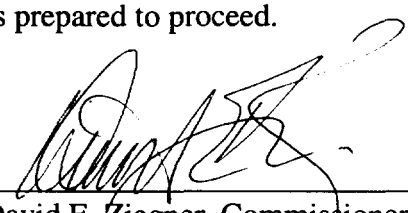
On July 6, 2005, the Indiana Office of Utility Consumer Counselor ("OUCC") filed a *Motion for Stay* ("Motion") in this proceeding. In its Motion, the OUCC outlines ongoing issues with respect to Stucker Fork Conservancy District's ("Stucker Fork" or "Petitioner") failure to respond to data requests issued by the OUCC in a complete and timely manner. As the OUCC is unable to complete its case-in-chief testimony without complete responses to its data requests, the OUCC requests that this matter be stayed until the Petitioner has provided all outstanding discovery. The OUCC also indicates in its Motion that it contacted Stucker Fork's counsel regarding the issues contained in the Motion and was advised that "after the motion has been filed, [Stucker Fork's counsel] will review it and advise the Commission through a filing whether Stucker Fork objects to the motion." Motion at 2-3. No such filing has been made with the Commission.¹

As referenced in a Docket Entry issued by the Presiding Officers on May 11, 2005, Stucker Fork's failure to respond to data requests in a timely manner has already resulted in a continuance of the procedural schedule in this proceeding. In addition, Stucker Fork has failed to provide any explanation to the Commission regarding its apparent inability to move forward with its petition without further delay. Therefore, the Presiding Officers, having reviewed the Motion, and being duly advised in the premises, hereby GRANT the Motion. The Evidentiary Hearing scheduled for August 4, 2005 is hereby VACATED.

¹ Pursuant to 170 IAC 1-1.1-12(e) "Any response to a written motion must be filed with the commission within ten (10) days after service of the motion unless the presiding officer prescribes a different time." *Id.* In accordance with 170 IAC 1-1.1-13 (g) "Whenever a party has the right or is required to do some act or take some action within a prescribed period after service on the party of a pleading, notice, or other document by United States mail, that party has three (3) additional days to the prescribed period unless the presiding officer or this rule otherwise provide." Therefore, a response from the Petitioner to the OUCC's Motion was due by July 19, 2005.

While we are granting the OUCC's Motion, we see no reason why this matter should remain on the Commission's docket only to proceed upon the request of the parties. Therefore, Stucker Fork should advise the Presiding Officers by August 1, 2005, of its intention to comply with the specific timeframes for discovery contained in the Commission's January 19, 2005 Prehearing Conference Order, and its ability or willingness to proceed with this matter generally. If the Petitioner is prepared to proceed in this matter, Stucker Fork's filing on August 1, 2005, should include a joint proposed procedural schedule that outlines the dates for additional prefiled testimony in this Cause along with a proposed date for the Evidentiary Hearing. If Stucker Fork is not prepared to proceed with this matter, the Petitioner should provide an explanation to the Presiding Officers, as to why it would not be in the interest of judicial economy to dismiss this matter without prejudice in order for this case to be refiled when the Petitioner is prepared to proceed.

IT IS SO ORDERED.



David E. Ziegner, Commissioner

Scott R. Storms, Chief Administrative Law Judge

Date: July 20, 2005